

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,) Case No. 08cv0963 IEG (CAB)
Petitioner,) ORDER TO SHOW CAUSE RE:
v.) ENFORCEMENT OF INTERNAL REVENUE
DAVID REYES, JR.,) SERVICE SUMMONS
Respondent.)

)

Upon the Petition of the United States and the Declaration of
Revenue Officer S. Silverman, it is hereby
ORDERED that David Reyes, Jr. (hereinafter "Respondent"),
appear before the United States District Court for the Southern
District of California in Courtroom No. 1, on Monday, August 18,
2008 at 10:30 a.m. to show cause why he should not be compelled to
fully obey the Internal Revenue Service summons served upon him on
June 27, 2007, and to provide the documents requested therein.

It is further ORDERED that:

1 1. A copy of this Order, together with the Petition to
2 Enforce Internal Revenue Service Summons and the Declaration of
3 Revenue Officer S. Silverman, be personally served upon Respondent
4 within 21 days of the date that this Order is served upon counsel
5 for the United States or as soon thereafter as possible. Pursuant
6 to Fed. R. Civ. Proc. 4(c)(2), the Court hereby appoints the group
7 manager of Revenue Officer S. Silverman and all federal employees
8 designated by the group manager, to serve process in this case.
9

10 2. Proof of any service done shall be filed with the Clerk as
11 soon as practicable.

12 3. Because the file in this case reflects a prima facie
13 showing that the investigation is being conducted for legitimate
14 purposes, that the inquiry is relevant to those purposes, that the
15 information sought is not already within the Commissioner's
16 possession, and that the administrative steps required by the
17 Internal Revenue Code have been followed, United States v. Powell,
18 379 U.S. 48, 57-58 (1964), the burden of coming forward has shifted
19 to Respondent to oppose enforcement of the summons.
20

21 4. If Respondent has any defenses to present or opposition to
22 the petition, such defense or opposition shall be in writing and
23 filed with the Clerk and copies served on counsel for the United
24 States at least 14 days prior to the date set for the show cause
25 hearing. The United States may file a reply memorandum to any
26 opposition at least 5 court days prior to the date set for the show
27 cause hearing.
28

1 5. At the show cause hearing, the Court will consider all
2 issues raised by Respondent. Only those issues brought into
3 controversy by the responsive pleadings and supported by an
4 affidavit will be considered. Any uncontested allegation in the
5 petition will be deemed admitted.

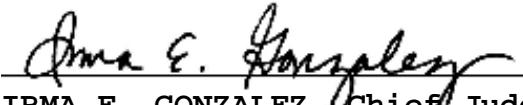
6 6. Respondent may notify the Court, in a writing filed with
7 the Clerk and served on counsel for the United States at least 14
8 days prior to the date set for the show cause hearing, that
9 Respondent has no objection to the enforcement of the summons.

10 Respondent is hereby notified that a failure to comply with
11 this Order may subject him to sanctions for contempt of Court.

12 The Clerk shall forward copies of this Order to counsel for the
13 United States at the address indicated on its pleadings.

14 IT IS SO ORDERED.

15 **DATED: June 6, 2008**

16 
17 IRMA E. GONZALEZ, Chief Judge
18 United States District Court

19
20
21
22
23
24
25
26
27
28